



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,814	10/30/2003	Hugh S. Njemanze	25137-11333	2475
758 7590 02/28/2007 FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			EXAMINER KIM, PAUL	
			ART UNIT	PAPER NUMBER
			2161	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/698,814	Applicant(s) NJEMANZE, HUGH S.	
	Examiner Paul Kim	Art Unit 2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/29/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is responsive to the following communication: Amendment filed on 22 November 2006.
2. Claims 24-44 are pending and present for examination. Claims 24, 36, and 44 are independent.

Response to Amendment

3. Claims 24, 36, and 44 have been amended.
4. Claims 1-23 have been cancelled.
5. No claims have been added.

Information Disclosure Statement

6. The information disclosure statement (IDS) submitted on 29 January 2007 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
8. **Claims 24-35, 36-43, and 44** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
 - a. Claims 24-35 recite a "user interface for representing an expression comprising a graphical representation of a tree." In this present case, the graphical representation of a tree constitutes nonfunctional descriptive material since the tree is an arrangement of data lacking any functional interrelationship. Additionally, a user interface may be considered to be software,

Art Unit: 2161

per se, which fails to fall within a statutory category. Accordingly, the claims are directed to non-statutory subject matter.

b. Claims 36-43 are directed to a computer-implemented method for displaying an expression. In this present case, the graphical representation of a tree constitutes nonfunctional descriptive material per se, since the tree is an arrangement of data lacking any functional interrelationship and not capable of causing functional change in the computer. See *Warmerdarm*, 33 F.3d at 1361, 31 USPQ2d at 1760).

c. Claim 44 recites a system comprised of a plurality of agents, a manager, and a console interface. As disclosed by Applicant's specification, "[a]gents are software programs" and "[m]anagers 414 are server-based components" (See Specification, [0030]-[0031]). Accordingly, the agents, managers, and a console interface may be considered to be software, per se. Therefore, the claims are directed to non-statutory subject matter since they fail to fall within a statutory category. Additionally, the graphical representation of a tree constitutes nonfunctional descriptive material since the tree is an arrangement of data lacking any functional interrelationship.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is (571) 272-2737. The examiner can normally be reached on M-F, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on (571) 272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2161

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paul Kim
Patent Examiner
Art Unit 2161

APM
APM Mofiz
SPE, TC 2100